REMARKS

A final Office Action was mailed on March 8, 2005. Claims 1 – 13 are pending in the present application. Applicant amends claims 1 and 10. No new matter is introduced. Suppport for the amendments may be found, for example, at page 11, lines 28 – 37 and page 12, line 27 – page 13, line 26 of Applicants' specification.

ALLOWED CLAIM

Applicants thank the Examiner for indicating that claim 9 is allowed.

REJECTION UNDER 35 U.S.C. §§ 102, 103

Claims 1 – 3 and 10 – 12 are rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,948,069 to Kitai et al. Claims 4 - 8 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Kitai view of U.S. Patent No. 6,631,122 to Arunachalam et al. Claim 13 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Kitai view of Arunachalam and U.S. Patent No. 6, 529,483 to Itjehorst. Applicants amend claims 1 and 10 to further clarify the nature of their invention, and respectfully traverse the rejections.

In amended independent claim 1, Applicants claim:

> 1. . A data transmission apparatus transmitting data received from a user terminal device through a plurality of networks to a destination, said user terminal device executing communication using an Internet protocol, said data transmission apparatus comprising:
>
> a routing table storing information relating a destination address of the data and addresses of the plurality of networks;
>
> an information table storing static and dynamic information about the plurality of networks, said dynamic information including information provided from an external information source; and
>
> a selection unit automatically selecting at least one of the plurality of networks, so that the data can be transmitted to the destination rapidly, based on an overall status of each of the networks derived from said static and dynamic information.

In a Response to the Office Action of July 15, 2004 mailed on October 14, 2004, Applicants made the following arguments:

> Kitai discloses a system and method for performing data communications between client and server computers in a communication network (see, e.g., abstract of Kitai). FIG. 1 of Kitai illustrates a conventional router having a routing table, a network interface information table and a QoS control table. The Examiner asserts that the routing table and network interface information table of Kitai's FIG 1 are equivalent to Applicants' routing table and information table, respectively. However, unlike Applicants' invention as claimed in claim 1, Kitai does not disclose or suggest that the network interface information table stores dynamic information about the plurality of networks, including information provided from an external information source, and that at least one of a plurality of networks is selected based on the dynamic information.

In the present Office Action, the Examiner indicates that he finds these arguments to be unpersuasive. Specifically, he suggests that the network information table and QOS control table of an associated server, as illustrated in FIG. 1 of Kitai, meet Applicants' claimed limitations as to the information table, and in particular, with respect to "dynamic information" (for example, peak and average transfer rates as illustrated by Kitai's QOS table). Applicants respectfully disagree.

The Examiner suggests that column 3, lines 43 – 47 illustrate that Kitai discloses Applicants' claim limitation teaching an information table storing static and dynamic information about the plurality of networks, said dynamic information including information provided from an external information source. Applicants submit that the information described by Kitai at column 3, lines 43 – 47 comprise statistical information relating to the bandwidth of a virtual channel and to the dynamic load. As further described for example at column 8, lines 54 – 65, Kitai describes the QOS control table as follows:

> Each entry of the QOS control table includes the maximum bandwidth (Mbps) 90 of the network interface concerned, the number of virtual channels (VC) 91, a bandwidth (Mbps) 92 assigned to each virtual channel, a flag 93 indicating whether the connection of each virtual channel is established or not, the number of virtual channels 94 of which the service class is GB or GS and through which a

connection is established, the total value (Mbps) of bandwidths 95 of which the service class is GB or GS and with which a connection is established and reserved, the peak transfer rate (Mbps) 96 for the latest 1 min, and an average transfer rate (Mbps) 97 for the latest 1 min

Applicants submit that the information described by Kitai as being held by the QOS control table represents information that is generated by the associated server, and therefore not information that is specifically provided from an external information source. The information described by Kitai is essentially traffic information relating to the server itself, rather than information pertaining to overall status of each of a plurality of networks interconnected to the server as claimed by Applicants. Finally, Applicants note that, whereas Kitai teaches that a service class and associated route are selected according to a QOS service request (see, e.g., column 9, lines 24 – 34), Applicants teach an apparatus having a selection unit that automatically selects (without further user input) at least one of the plurality of networks, based on an overall status of each of the networks derived from said static and dynamic information.

Accordingly, Applicants respectfully submit that amended independent claim 1 is not anticipated by Kitai, and stands in condition for allowance. Applicants substantially re-apply these same arguments to submit that amended independent claim 10 is not anticipated by Kitai. As dependent claims 2 – 9 and 11 – 13 each depend from one of allowable claims 1 and 10, Applicants respectfully submit that dependent claims 2 – 9 and 11 – 13 are also allowable for at least this reason.

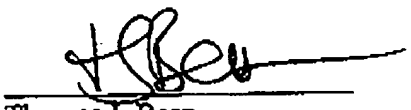
CONCLUSION

An earnest effort has been made to be fully responsive to the Examiner's objections. In view of the above amendments and remarks, it is believed that claims 1 – 13, including independent claims 1 and 10 and the claims that depend therefrom, stand in condition for allowance. Passage of this case to allowance is earnestly solicited. However, if for any reason

the Examiner should consider this application not to be in condition for allowance, he is respectfully requested to telephone the undersigned attorney at the number listed below prior to issuing a further Action.

Any fee due with this paper may be charged on Deposit Account 50-1290.

Respectfully submitted,



Thomas J. Bean
Reg. No. 44,528

CUSTOMER NUMBER 026304

PHONE: (212) 940-8800/FAX: (212) 940-8776
DOCKET No.: FUJI 18.299 (100794-11622)